

1 Stephen J. Kottmeier (State Bar No. 077060)
2 Jay M. Ross (State Bar No. 151750)
3 Tod C. Gurney (State Bar No. 199813)
HOPKINS & CARLEY
A Law Corporation
The Letitia Building
70 S First Street
San Jose, CA 95113-2406

6 ***mailing address:***

P.O. Box 1469
7 San Jose, CA 95109-1469
Telephone: (408) 286-9800
8 Facsimile: (408) 998-4790

9 Attorneys for Defendants
SHARP DEVELOPMENT COMPANY, INC. and
10 SHARP LAFAYETTE, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 In re:

14 EXDS, INC. (f/k/a EXODUS
15 COMMUNICATIONS, INC.),

16 Debtor

17 EXDS, INC. (f/k/a EXODUS
18 COMMUNICATIONS, INC.),

19 Plaintiff,

20 v.

21 DEVCON CONSTRUCTION, INC.
22 SHARP DEVELOPMENT COMPANY,
INC., and SHARP LAFAYETTE, LLC,

23 Defendants.

CASE NO. C-05-787 PVT

STIPULATION AND ~~PROPOSED~~
ORDER AMENDING SCHEDULING FOR
DEFENDANTS SHARP DEVELOPMENT
AND SHARP LAFAYETTE TO SUBMIT
FURTHER EXPERT REPORT AND TO
FILE MOTION FOR SUMMARY
JUDGMENT

24
25 WHEREAS, on or about August 25, 2005, the Court in the above-captioned case issued an
Order [Docket Doc. No. 239] granting plaintiff EXDS, Inc. ("EXDS") leave to file a Second
Amended Complaint and provided Defendants Sharp Development Company, Inc. and Sharp
Lafayette, LLC (collectively for convenience only "SHARP") with, among other things and

1 related to the new allegations and/or new cause of action in the Second Amended Complaint, the
2 opportunity to submit a further expert report by September 23, 2005 and to file any motion for
3 summary judgment by October 11, 2005;

4 WHEREAS, SHARP served written discovery on EXDS and SHARP believes EXDS'
5 responses to that discovery, which are not due until after September 23, 2005, may limit the scope
6 of or possibly eliminate the need for any further expert report;

7 WHEREAS, SHARP would like to complete the depositions of EXDS' experts for
8 purposes of its motion for summary judgment and, after diligent efforts by counsel and the
9 witnesses, those depositions are scheduled for November 8-10, 2005; and,

10 WHEREAS, EXDS and SHARP have agreed to extend the time for SHARP to submit a
11 further expert report and to file a motion for summary judgment as provided herein.

12 NOW, THEREFORE, EXDS AND SHARP stipulate and agree, and request that the Court
13 enter an order as follows:

14 1. SHARP shall have an extension of time to October 18, 2005 to serve a further
15 expert report to address the new allegations and/or new cause of action in the Second Amended
16 Complaint; and,

17

18

19

20

21

22

23

24

25

26

27

28

1 2. SHARP shall have an extension of time to November 29, 2005 to file any
2 summary judgment motion related to EXDS' new allegations and/or new cause of action, for
3 hearing no later than January 3, 2006.

4 **STIPULATED AND AGREED.**

5 Dated: September 23, 2005

Jenner & Block LLP

7 By: _____ //s//

8 Richard F. Levy
9 Attorneys for Plaintiff, EXDS, Inc.

10 Dated: September 23, 2005

HOPKINS & CARLEY
A Law Corporation

12 By: _____ //s//

13 Jay M. Ross
14 Attorneys for Defendants
15 SHARP DEVELOPMENT COMPANY,
16 INC. and SHARP LAFAYETTE, INC.

17 **IT IS SO ORDERED.**

18 Dated: 9/26/05

19 
20 PATRICIA V. TRUMBULL
21 United States Magistrate Judge